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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,876	01/17/2002	Hans-Hermann Wippersteg	3957/59156-103	7926

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HUSCH & EPPENBERGER, LLC
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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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10/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/051,876	Applicant(s) WIPPERSTEG, HANS-HERMANN	
	Examiner Michael J. Fisher	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 32-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 28-30 and 32-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,442,553 to Parillo (Parillo).

As to claims 28,49, Parillo discloses a system for repair management of vehicles (title), a network (fig 1), a central computer with a database containing repair plans (abstract, lines 4-6), the database stores pre-service life design changes (col 5, lines 14-16), a remote computer (fig 3), containing a graphical user interface (col 3, lines 29-31), a memory (fig 3), storing service life modifications (col 4, lines 57-60), a diagnostic system including an interface capable of communication with the remote computer (figs 1, 2), a network connection between the central and remote computer (fig 1), a unique identifier for each machine (col 5, lines 1-2), a display at the remote

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computer (28). The system further could be used for agricultural, construction or forestry machines as it is used for automobiles and pick-up trucks are used in agriculture, construction and forestry, the data set includes modification history of the machine (col 4, lines 57-60, this would be "pre-service life design change").

Parillo does not, however, specifically teach accepting user input including at least one of the repairs. Parillo further discloses sending repair data to the vehicle (abstract, lines 4-6), as it is transmitted back, it would be obvious to display it so the repairs could be effected, this would inherently include any modifications or else the repairs could be done incorrectly.

Parillo does, as discussed, note that any repairs should be entered into the memory. It would have been obvious to one of ordinary skill in the art to allow the user, via the input, to enter repair data to ensure that it gets entered.

As to claim 29, the data set includes modification history of the machine (col 4, lines 57-60).

As to claim 30, the display data includes work path for repair (col 4, lines 43-45, the display would indicate that the tires need air).

As to claim 32, the display shows an approval field for response by the user (col 5, lines 40-42, the response would be the customer bringing the vehicle in for repairs).

As to claim 33, the system receives feedback data (col 1, lines 54-56).

As to claim 34, the feedback consists of maintenance status (col 4, lines 40-50).

As to claim 35, there is a variance database (col 5, lines 44-46).

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As to claim 36, Parillo does not specifically mention part performance evaluations. However, Parillo does teach using the information to correct deficiencies (col 5, lines 44-45), therefore, it would have been obvious to one of ordinary skill in the art to modify the system as taught by Parillo by saving part performance evaluations as these would aid in correcting deficiencies in deficient parts.

As to claim 37, as best understood, it would have been obvious to one of ordinary skill in the art to use the data for training so that users of the system would know how to use it.

As to claims 38 and 47, Parillo does not teach a remote, repair vehicle. It would have been obvious to one of ordinary skill in the art to use a remote repair vehicle in case the vehicle is in an area where the network isn't active.

As to claim 39, Parillo the stored data is service history, (col 4, lines 57-60).

As to claim 40, the data is sent to a remote computer. (fig 1).

As to claim 41, the data includes a list of parts (inherent in that repair information is sent to minimize repair time, col 5, lines 40-44).

As to claim 42, Parillo does not, however, teach a preventative exchange of parts. Parillo does, however, teach trying to ascertain which parts are problems (col 2, lines 26-30), therefore, it would have been obvious to one of ordinary skill in the art to use the data for preventative exchange of parts as Parillo teaches using the system to find defective parts.

As to claim 43, it is inherent that needed resources are provided else the repairs could not be performed.

As to claim 44, Parillo does not teach a verification element to ensure the repairs are performed. It would have been obvious to one of ordinary skill in the art to include a verification unit to ensure the work that's supposed to be done is done.

As to claim 45, Parillo does not specifically teach "producing documentation", however, it would have been obvious to one of ordinary skill in the art to have the unit produce documentation and send it to the central computer to ensure the work that's supposed to be done is done.

As to claim 46, the central computer produces an account for repair of the machine with the aid of the repair plan (claim 9).

As to claim 48, Parillo teaches a diagnostic system (22, fig 2) that sends data to the central computer (31).

Response to Arguments

Applicant's arguments with respect to rejection under 35 U.S.C. 112 have been fully considered and are persuasive. This rejection has been withdrawn.

Applicant's arguments filed 6/29/07 have been fully considered but they are not persuasive. The "history of the engine timing" is the vehicle sending data to the central computer, however, as discussed, the central computer sends data back (as noted in the Abstract, lines 4-6) and this is a recommended repair, thereby meeting the limitations as claimed. The plan would inherently be modified by repair information as the prior art teaches receiving this information and formulating a repair plan based on it.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US PAT 5,533,093 to Horton et al. discloses a method of transferring data to effect repairs.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MF

10/15/07



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